

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JUSTIN R. CRANFORD	§	PLAINTIFF
	§	
v.	§	CAUSE NO. 1:05CV486 LG-RHW
	§	
KENNETH ROBERSON, ET AL.	§	DEFENDANTS

**ORDER ADOPTING PROPOSED FINDINGS OF FACT AND RECOMMENDATION
AND DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

This cause comes before the Court on the Proposed Findings of Fact and Recommendations of United States Magistrate Judge Robert H. Walker entered in this cause on July 29, 2008. Magistrate Judge Walker reviewed the Motion for Summary Judgment filed by Defendants Roerson, Kelly, Matthis, Ellsberry and Savage in this excessive force case. He found that the affidavits submitted did not show the absence of a genuine issue of material fact as to the policies and procedures at the Harrison County Sheriff's Office. The Magistrate Judge found insufficient evidence that, as a matter of law, the Defendants' actions were objectively reasonable under the circumstances. He therefore recommended that the Motion be denied.

There has been no objection to the Report and Recommendation filed. Where no party has objected to the Magistrate Judge's Proposed Findings of Fact and Recommendation, the Court need not conduct a de novo review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Proposed Findings of Fact and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court finds that the Magistrate Judge's

Proposed Findings of Fact and Recommendation is neither clearly erroneous nor contrary to law. Therefore, the Court, being duly advised in the premises, finds that said Proposed Findings of Fact and Recommendation should be adopted as the opinion of this Court.

IT IS THEREFORE ORDERED AND ADJUDGED that the Proposed Findings of Fact and Recommendation of United States Magistrate Robert H. Walker entered in this cause on July 29, 2008 [147] should be, and the same hereby is, adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Defendants' Motion for Summary Judgment [128] is **DENIED**.

SO ORDERED AND ADJUDGED this the 19th day of August, 2008.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE